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FEDERAL COMMUNICATIONS COMMISSION

NOS NATIONAL
OPERATOR
SERVICES, INC.
CCB/CPD No. 98-34

**COMMENTS ON SPECIFIC QUESTIONS RELATED TO ASSESSMENT OF
PRESUBSCRIBED INTEREXCHANGE CARRIER CHARGES ON PUBLIC
PAYPHONE LINES**

RE: **CCB/CPD No. 98-34** **DOCKET FILE COPY ORIGINAL**
Comment Date: May 26, 1998
Reply Comment Date: June 2, 1998
Submitting Party: Craig Davis / National Operator Services, Inc. (NOS)
Cc: Larry Kay / National Operator Services, Inc. (NOS)

Office of the Secretary
Federal Communications Commission
Room 222
1919 "M" Street, NW
Washington, DC 20554

- (1) We seek comment on all issues raised in the following letters to Common Carrier Bureau representatives:
- (a) No comment.
- (b) Letter from Larry Kay, National Operator Services, to A. Richard Metzger, Jr. Chief, Common Carrier Bureau, Federal Communications Commission, April 22, 1998.

47 C.F.R. s. 69.153 provides for recovery of the PICC from residential and business lines. LEC payphones lines are neither residential nor business lines and should not be subject to the PICC. LECs are incorrectly interpreting the Commission's rules by billing the presubscribed 0+ carrier for public payphone lines. The 0+ carriers pass the PICC to its customers who are obligated to pay the PICC regardless of the amount of traffic the presubscribed 0+ carrier bills and collects. Allowing the LECs to continue this arbitrary and capricious practice of billing the 0+ carrier for the PICC even where the presubscribed 0+ carrier is never utilized is onerous. The LEC imposition of the PICC on the 0+ carrier for payphones places a chilling effect on the entire operator services industry for pay telephone interlata competition. The Telecommunications Act of 1996 was designed to encourage competition and level the playing field for competitors. With the LECs currently billing the PICC charge for LEC payphones to the presubscribed 0+ carrier, the access charge system fails to be economically efficient, nor fair, nor compatible with competition. The growth of the operator services industry and the growth of the LEC payphone industry better serve the public interest. Imposing a PICC for LEC payphone lines would have a detrimental effect on interstate, interLATA carriers, payphone location providers, and payphone end users.

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(c) No comment.

(d) No comment.

- (2) Does the Commission's existing rules governing collection of the PICC, 47 C.F.R. s.69.153, permit price cap LECs to impose PICC charges for LEC public payphone lines and, if not, whether the rules should be amended to provide explicitly for assessment of PICCs on public payphones?

No. The Commission's existing rules governing collection of the PICC, 47 C.F.R. s. 69.153 does not permit price cap LECs to impose PICC charges for LEC public payphone lines, and, the rules should not be amended to provide explicitly for assessment of PICCs on public payphones.

The regulations regarding access charges concern the presubscribed 1+ carrier for business and residential lines only. The econometric models used to justify the fixed rate PICC are based on businesses and individuals using more presubscribed business and residential 1+ calling when the presubscribed 1+ rates are lowered due to carrier cost reductions based on increased long distance calling volume. The 1+ carriers to which businesses and individuals subscribe are a function of business and residential consumer choice rationally based on price and quality of service. Based on increased call volume at lower prices on the presubscribed business or residential 1+ line coupled with the PICC which is passed onto the business and residential user by the presubscribed 1+ carrier a greater saving per minute of use is theoretically realized by the consumer.

Public payphones are a separate and distinct class from business and residential lines. Unlike business and residential lines, the end users of public payphones **ARE NOT** the same as the entities who selected the 1+ and 0+ primary interexchange carriers (PIC). The 1+ carriers to which public payphones subscribe are a function of the incumbent LECs selection based on their own business decisions. The location provider for the public payphone and the end users using the payphone do not take part in the 1+ carrier selection. Similarly, only the payphone location providers select the 0+ carrier for the payphone based on their own business decisions. To wit, the presubscribed carrier, billed by the LEC for the PICC will not receive an increase in long distance call volume necessary to offset the cost of the PICC. The burden of the PICC must be passed onto the payphone location provider even though the location provider for the public payphone does not typically use the payphone. LEC payphones are a convenience for transient users such as the location provider's customers or the general public.

By "dialing around", most payphone end users making long distance calls fail to utilize the presubscribed carriers selected for the payphones. End users select a carrier of their own choosing when placing interstate/interLATA calls. Placing

the burden of the PICC on the presubscribed 0+ carrier diminishes competition in the operator services market place for LEC payphones. Imposition of the PICC for LEC payphones will potentially lead to higher rates and fewer payphones in contravention of the public interest.

- (3) Assuming that price cap LECs are permitted to assess PICC charges on public payphone lines, should the PICC be: (a) charged to the presubscribed 1+ carrier; (b) charged to the presubscribed 0+ carrier; (c) imputed to the LEC's payphone unit as an end user; (d) split evenly between the 1+ and 0+ PIC; or (e) prorated among all IXCs that carry calls originating from a particular payphone each month?

Where the price cap LECs are permitted to assess the PICC on public payphone lines, the PICC should be charged to the presubscribed 1+ carrier.

Reason dictates that the PICC should be collected from the presubscribed 1+ carrier selected by the LEC providing the public payphone line. This is a reasonable interpretation since LECs currently recover the PICC from the presubscribed 1+ carriers for business and residential lines under 47 C.F.R S 69.153.

As a second option, the PICC should be prorated among all IXCs that carry calls originating from a particular payphone each month where price cap LECs are permitted to assess PICC charges on public payphone lines.

LEC payphones, unlike residential and business lines, are subject to interlata "dial around" (using, e.g., 10xxx codes and 1-800 carrier access numbers (1-800-CALLATT OR 1-800-COLLECT)). Dial around drastically diminished the number of interlata calls processed by both the presubscribed 1+ carrier and the presubscribed 0+ carrier. To wit, the financial burden of a monthly recurring PICC on either the 1+ or 0+ presubscribed carriers would be prohibitive. Since LECs have to hand off the calls to the various long distance carriers selected when interlata calls are placed from public payphones, the LECs are in the best position to track calls for the purpose of prorating the PICC among all carriers utilized for interstate, interLATA calling from public payphones in a given month.

As a third option, the imputation of the PICC to the LEC's payphone unit as an end user has substantial merit. The LEC's payphone unit views each payphone as a vending machine generating revenue based on money collected for outgoing calls. The payphone unit collects the revenue for the coin sent paid calls made utilizing the presubscribed 1+ carrier, and the revenue for local calls. The PICC can be seen as the cost of doing business for the LEC's payphone unit. The imputation of the PICC to the LEC's payphone unit can be further rationalized since the deregulation of the local coin rate and the increase of local calls to \$0.35 in many regions of the country.

Requiring the 0+ carrier to bare the entire burden of the PICC is without merit. It imposes an onerous burden on the 0+ carrier, which on a majority of payphone lines, cannot be recovered through presubscribed 0+ usage. NOS discussions with several IXC's determined that a vast majority of end users placing interstate/interLATA calls fail to utilize the presubscribed 0+ carrier on LEC payphone lines.

- (4) Should all public payphones be charged the multiline business PICC, or should some public payphones, such as those that constitute the only telephone line at a given location, be charged the single-line business PICC?

Where it is determined that the price cap LEC may recover a portion of the common line revenues through a PICC on public payphones, the LEC should assess charges based on the number of payphone lines at a given location as it would for business or residential lines at a given location.

- (5) Do policy reasons, practical considerations, or other factors suggest that price cap LECs should be permitted to assess PICCs on the LEC's public payphone lines that are different in amount, or collected from a different party, from those assessed on privately owned payphones?

No comment.

- (6) To what degree could imposition of PICC charges on any of the parties listed in Question (3), above, cause reductions in the availability of public payphone services, increases in rates, or reduction in competition for interstate, interLATA traffic originating from public payphones?

Imposition of PICC charges on the parties listed in Question (3) above would have the following impacts:

(a) Presubscribed 1+ carrier.

While no impact on the availability of public payphone services is foreseen, presubscribed 1+ carrier rates would be raised to cover the PICC. Increased rates would more than likely reduce the usage of interstate, interLATA traffic originating from public payphones.

(b) Presubscribed 0+ carrier.

Imposition of PICC would have no impact on the availability of public payphone services; however, the 0+ rates would also have to be raised in attempts to cover the cost of the PICC. Increased rates would reduce the interstate, interLATA traffic originating from public payphones.

(c) LEC Payphone Units.

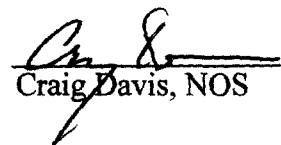
Imposition of PICC may impact the availability of public payphone services. LEC Payphone Units might accelerate the removal of the

unprofitable low usage LEC payphones. However, LEC Payphone Units may use a higher local coin rate to offset the PICC. Alternately, the PICC could be passed through to the payphone location provider as part of a new monthly fee, or in the case of semi-public payphones an additional monthly fee. The impact on competition for interstate, interLATA traffic originating from public payphones is minimal.

CONCLUSION

Imposition of the PICC on LEC payphone lines is harmful regardless of the party bearing the burden of this monthly recurring charge. Where this charge is imposed, payphone location providers, end users, interstate/interLATA carriers will all be deleteriously impacted. The viability of all businesses built around providing services to LEC payphones is in question. The Commission should act to forestall the imposition of the PICC for LEC payphone lines, and to protect the operator services industry for the benefit of payphone location providers, end users, and the general public.

Respectfully Submitted,

 5/21/98
Craig Davis, NOS